

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 11th day of December at 8:00 P.M., and there were

PRESENT:            MARK AQUINO, MEMBER  
                         JAMES PERRY, MEMBER  
                         LAWRENCE PIGNATARO, MEMBER  
                         RICHARD QUINN, MEMBER  
                         ARLIE SCHWAN, MEMBER  
                         ROBERT THILL, MEMBER

ABSENT:            JEFFREY LEHRBACH, CHAIRMAN

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                         GEORGE PEASE, ASSISTANT BUILDING INSPECTOR  
                         NICHOLAS LOCICERO, TOWN PROSECUTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

In the absence of Chairman Lehrbach, the Town Clerk asked for a motion to appoint a temporary chair. A motion to appoint Mr. Quinn temporary chairman was made by Mr. Perry and seconded by Mr. Pignataro.

The motion was duly put to a vote as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

**Motion Carried**

Mr. Quinn called the meeting to order at 8:08 P.M.

**PETITION OF BENDERSON PROPERTIES, INC.**

THE CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Benderson Properties, Inc., 570 Delaware Avenue, Buffalo, New York 14202 for one [1] variance for the purpose of erecting lighting fixtures on premises owned by the petitioner at 4817 Transit Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 23B.(3) of the Code of the Town of Lancaster. The petitioner requests sixteen [16] lighting fixtures to be placed at a height of thirty-two [32] feet.

Chapter 50, Zoning, Section 23B.(3) stipulates that the lighting fixture height above grade shall not exceed fifteen [15] feet in or adjacent to a residential district or use, and in no instance shall they exceed twenty [20] feet above grade. The petitioner, therefore, requests a variance of seventeen [17] feet.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying the New York State Department of Transportation of the time and place of this public hearing.

Copy of a letter notifying the Town of Cheektowaga of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Peter Sorgi, Attorney, representing Benderson Properties, Inc	Proponent
Bill Rae, Director of Engineering, Benderson Properties, Inc.	Proponent
James Boglioli, Right to Build Director, Benderson Properties, Inc.	Proponent

**IN THE MATTER OF THE PETITION OF BENDERSON PROPERTIES, INC.**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PIGNATARO  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Benderson Properties, Inc. and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of December 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within a General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the character of the neighborhood is as follows:

- The property to the north and contiguous to the petitioner's property is a department store locally known as Kohl's. This department store has a large parking lot area lighted with lamps set at a height of 32 feet above grade. The Zoning Board of Appeals granted a height variance to Kohl's on February 12, 2004 to allow the installation of parking lot lights at a height of 32 feet above grade with a 17 foot variance from the 15 foot permitted by Chapter 50 of the Code of the Town of Lancaster.
- That located north of Kohl's and contiguous to the parking lot area is a multi-family apartment complex locally known as the Park Lane Apartments.
- That the property to the south and contiguous to the petitioner's property is a multi-family apartment complex and is locally known as the Briarcliff Apartments.

That Mr. Thill, a member of the Zoning Board of Appeals contacted John Abraham, a resident of the Park Lane Apartment complex located to the north of Kohl's parking lot and inquired if he had any knowledge of complaints from the apartment complex residents of offensive parking lot light or glare from the Kohl's parking lot. The answer was negative, no complaints of which he had knowledge.

That the petitioner submitted to the Zoning Board of Appeals a photometric plan dated September 12, 2008 of the proposed parking lot lights on the subject premises.

That the plan showed the code required a buffer zone adjoining the apartment complex to the south and 15 foot lamps in accordance to the code along the south boundary of the property. As the lamps moved to the north away from the apartment complex, the height of the lamps increase from 15 feet to 32 feet, thus the need for the relief sought via a variance.

That the plan indicated no light spillage to the apartment complex on the south. The planned 0-1104ights are metal halide WLS Lighting System FV Series 9 Vertical Lamp/ Flat Lenses which are dark sky compliant.

The security lights on the south side of the building facing the apartment complex for which no variance is needed are also WLS Lighting Syatem WMS Series with flat lenses that are dark sky compliant.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon the aforementioned findings and pursuant to an Application for Area Variance dated November 7, 2008 for premises located at 4817 Transit Road, Lancaster, New York, Benderson Properties, Inc. is granted a variance from the 15 foot height requirement of Chapter 50, Section 23 B(3) of the Code of the Town of Lancaster for the purpose of erecting 16 lights on the development premises at a height of 32 feet in accordance with the application of the petitioner and exhibits presented and attached thereto.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

The resolution granting the variance was thereupon **ADOPTED**.

December 11, 2008

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:40 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: December 11, 2008